UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,294	04/21/2006	Bjorn Johansson	19200-000051/US	5909

30593 7590 05/01/2009

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
WILLIAMS, MONICA L	
ART UNIT	PAPER NUMBER
3644	
MAIL DATE	DELIVERY MODE
05/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/542,294	JOHANSSON ET AL.	
	Examiner	Art Unit	
	MONICA L. WILLIAMS	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 January 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-7 and 9-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maasland (EP 0608941 A1) in view of Hendrik Harmsen et al (EP 1213676 A1).

3. In re claim 1, with reference to col.2 lines 23-26 and 30-33, and Figure 1, Maasland discloses a computer controlled arrangement for housing a large number of milking animals, each of which belongs to one of a plurality of groups, the arrangement comprising: a resting area (4-11) wherein the milking animals are allowed to rest, a feeding area (3) wherein the milking animals are fed; and a milking area (2) housing at least one milking robot for milking the milking animals, wherein at least one of the resting area (4-11) and the feeding area (3) is partitioned in sections which corresponds to the number of groups to which said milking animals belong; and a device (13,19,20,21,33) including a plurality of selection gates and a plurality of animal identification members, the device provided for automatically directing each of the milking animals moving towards the at least one of said resting area and the said feeding area which is partitioned in sections, into one of the sections depending on the group, to which the respective milking animal belongs, so that each of the sections will

house milking animals belonging to one only of the groups. Not disclosed is mixing the plurality of groups in at least one of the resting, feeding, and milking areas.

4. However, with reference to [0002] and [0022-23], Harmsen et al disclose a computer controlled arrangement for housing a large number of milking animals including an animal identification device (8.3,8.4) provided for identifying each milking animal and a resting area (10.1), a milking area (10.2), and a feeding area (10.3), wherein milking animals can be grouped, and wherein the device for identification is configured to mix the plurality of groups including the large number of milking animals in at least one of the resting, feeding, and milking areas [0042]. The advantage of this is to feed or milk a plurality of animals from a plurality of groups at the same time for greater efficiency. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the system of Maasland to mix the plurality of groups as taught by Harmsen et al in order to feed or milk a plurality of animals from a plurality of groups at the same time for greater efficiency.

5. In re claims 2 and 21, with reference to col.3 lines 20-27 and Figures 1 and 3, Maasland discloses the claimed invention as described above including the milking area houses a plurality of milking boxes (31,32) each of which being adapted to receive a respective milking animal, the resting area (4-11) is partitioned in sections, each of which being adapted to house milking animals belonging to one of the plurality of groups, and each of which being linked (12) to the milking area (2) so that milking animals in the respective section have access to a subset only of the plurality of milking boxes (each animal can only go into one milking box), and a device (20) is provided for

automatically enlarging or reducing each of the respective subsets of the plurality of milking boxes to which animals housed in each section have access, depending on the number of milking animals housed in the respective section or on the milking capacity required by the milking animals housed in the respective section. Not disclosed is the at least one milking robot being adapted to milk the animals present in the milking boxes concurrently.

6. However, the Examiner takes Official Notice that it is well known in the art to have a milking robot that can milk animals in a plurality of milking boxes concurrently. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the milking robot of Maasland to milk a plurality of milking boxes concurrently in order to have faster production.

7. In re claims 3, 9, and 22, Maasland discloses the claimed invention as described above except for the milking area having a plurality of milking robots.

8. However it would have been obvious to one having ordinary skill in the art at the time the invention was made to have had a plurality of milking robots in order to have faster production, since it has been held that mere duplication of the essential working parts involves only routine skill in the art. In re Japikse, 86 USPQ 70.

9. In re claim 4, with reference to Figure 1, Maasland discloses the milking area is arranged so that the milking animals have to pass the milking area when moving from the resting area to the feeding area.

10. In re claim 5, with reference to Figure 1, Maasland discloses the resting area is partitioned in sections.

11. In re claims 6, 11-16, 19, and 26-27, Maasland discloses the claimed invention as described above including a large number of milking animals are allowed to move freely in the feeding area and the resting area (col.1 lines 19-35). Maasland discloses the claimed invention except for an animal identification device.

12. However, with reference to [0002], [0022]-[0023], and Figure 3, Harmsen et al disclose a computer controlled arrangement for housing a large number of milking animals including an animal identification device (8.3,8.4) provided for identifying each milking animal presenting itself in front of the device provided for directing (12.1,12.2), and a device provided for opening at least one gate depending on the animal identification (col.10 lines 21-27), milking animals can be grouped by having similar milk production, similar phases of lactation cycle, or being ill, and there is a means for altering the belonging from one to another one of the plurality of groups [0009]. The advantage of this is to track where each individual animal is going and to keep the animals grouped for their overall wellbeing. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the system of Maasland to include an animal identification device as taught by Harmsen et al in order to track where each individual animal is going and to keep the animals grouped in such a manner for their overall wellbeing.

13. Maasland, as modified by Harmsen et al, disclose the claimed invention except for grouping the animals by being in heat or gestation. However, the Examiner takes Official Notice that grouping animals by such common characteristics is well known in the art. Thus it would have been obvious to one having ordinary skill in the art at the

time the invention was made to have grouped the animals by heat or gestation for organization and the overall wellbeing of the animals.

14. In re claim 7, with reference to Figure 1, Maasland discloses the device provided for directing includes a plurality of passage ways (19, 18, 13) from the feeding area to the resting area.

15. In re claim 10, with reference to Figure 1, Maasland appears to disclose the feeding area being partitioned in Figure 1. However, if not, the Examiner takes Official Notice that partitioning a feeding area is well known in the art. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the feeding area of Maasland to be partitioned in order to minimize aggression.

16. In re claim 17, with reference to col.3 lines 35-40, Maasland discloses a driving means (33), particularly a movable fence, partition, wire, or live wire, for driving milking animals in the resting area towards the milking area.

17. In re claim 18, with reference to col.3 lines 42-44 and col.6 lines 27-33, Maasland discloses the large number of animals being 80, but also discloses that the distribution and groupings may vary. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the housing of Maasland to accommodate more animals, particularly at least about 200, in order to produce more milk.

18. In re claim 20, with reference to col.2 lines 30-33, Maasland discloses a means (13) for automatically altering the partitions in sections of the resting area.

19. In re claim 23, with reference to col.2 lines 51-52, Maasland discloses the device (20) provided for automatically enlarging or reducing each of the respective subsets of the plurality of milking boxes comprises at least one computer controlled movable partition means, particularly a partition (door).

20. In re claim 24, with reference to Figure 1, Maasland discloses the milking area is arranged so that the milking animals have to pass the milking area when moving from the resting area to the feeding area.

21. In re claim 25, with reference to col.3 lines 35-40, Maasland discloses a driving means (33), particularly a movable fence, partition, wire, or live wire, for driving milking animals in the resting area towards the milking area.

22. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maasland (EP 0608941 A1) in view of Hendrik Harmsen et al (EP 1213676 A1) as applied to claims 1-7 and 9-27 above, and further in view of Conover (3,261,324).

23. In re claim 8, Maasland, as modified by Harmsen et al, discloses the claimed invention except for the plurality of passage ways from the feeding area to the resting area being arranged in at least two floors.

24. However, with reference to col.1 lines 22-28, Conover discloses a housing arrangement for animals with at least two floors. The advantage of this is to maximize minimum floor space. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the passage ways of

Maasland, as modified by Harmsen et al, to include at least two floors as taught by Conover in order to maximize minimum floor space.

25. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrik Harmsen et al (EP 1213676 A1) in view of Maasland (EP 0608941 A1).

26. In re claim 28, with reference to [0002] and [0022-23], Harmsen et al disclose a computer controlled arrangement for voluntary milking of a large number of milking animals each of which belongs to one of a plurality of groups, the arrangement comprising a resting area (10.1) wherein the milking animals are allowed to rest, a feeding area (10.3) where the animals are fed, a milking area (10.2) housing at least one milking robot (4.1,4.2) for milking the milking animals presenting themselves in the milking area if the presented milking animals satisfy a milking decision criteria [0042-44], animals of each of the plurality of groups having simultaneous access to the milking area [0039-44], a device (8.3,8.4) provided for automatically directing each milking animal moving towards one of the resting area and feeding area. Not disclosed is the resting area being partitioned in sections which correspond to the number of groups and the device directing the animals into one of the sections depending on the group to which the animal belongs such that each section will only house animals belonging to one of the groups.

27. However, with reference to col.2 lines 23-26 and 30-33, col.3 lines 20-27, and Figures 1 and 3, Maasland discloses a computer controlled arrangement for housing a

large number of milking animals, each of which belongs to one of a plurality of groups, the arrangement comprising: a resting area (4-11) wherein the milking animals are allowed to rest, a feeding area (3) wherein the milking animals are fed; and a milking area (2), and a device (13,19,20,21,33) provided for automatically directing each of the milking animals moving towards the resting area, wherein the resting area (4-11) is partitioned in sections which correspond to the number of groups, each section being adapted to house milking animals belonging to one of the plurality of groups. The advantage of this is to regroup the animals so that they will rest together. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the arrangement of Harmsen et al to have resting area being partitioned in sections which correspond to the number of groups and the device directing the animals into one of the sections depending on the group to which the animal belongs such that each section will only house animals belonging to one of the groups as taught by Massland in order to regroup the animals so that they will rest together.

Response to Arguments

28. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

29. In response to applicant arguments that Maasland does not disclose the partitions as claimed in Claim 21, this argument is not persuasive because Maasland does disclose that the resting area is partitioned in sections, each section is linked to

the milking area, and milking animals only have access to a subset of the plurality of milking boxes inherently because the animals can only be in one milking box at a time.

Conclusion

30. Copies of all of the foreign references that were cited on the IDS filed 07/15/2005 are attached.

31. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA L. WILLIAMS whose telephone number is (571)270-3113. The examiner can normally be reached on Mon to Fri 6:00-3:30, Alternate Friday off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael R Mansen/
Supervisory Patent Examiner, Art Unit 3644

MW 04/24/2009